

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOSE SCOTT,

Petitioner,

v.

18-CV-344
DECISION AND ORDER

WILLIAM P. BARR,
Attorney General of the United States;
THOMAS E. FEELEY,
Field Office Director for Detention and
Removal, Buffalo Field Office, Bureau of
Immigration and Customs Enforcement;
JOE KOSON,
Facility Director, Buffalo Federal
Detention Facility,

Respondents.

The pro se petitioner, Jose Scott, filed a petition for a writ of habeas corpus seeking relief from his detention at the Buffalo Federal Detention Facility. Docket Item 1. On April 4, 2019, the respondents filed a status report indicating that Scott had been removed from the United States on March 26, 2019. Docket Item 13. On April 4, 2019, this Court issued an order to show cause as to why this case should not be dismissed as moot. Docket Item 14. Scott did not respond.

“Under Article III of the Constitution, when a case becomes moot, the federal courts lack subject matter jurisdiction over the action.” *Leybinsky v. U.S. Immigration and Customs Enforcement*, 553 F. App’x 108, 109 (2d Cir. 2014) (summary order) (quoting *Doyle v. Midland Credit Mgmt., Inc.*, 722 F.3d 78, 80 (2d Cir. 2013)). “Under 28 U.S.C. § 2241, the habeas statute under which petitioner challenged his detention,

[courts] retain jurisdiction so long as the petitioner is “in custody.” *Pierrilus v. U.S. Immigration & Customs Enforcement*, 293 F. App’x 78, 79 (2d Cir. 2008). As Scott “was removed from the United States and thereby ICE custody, the petition has been rendered moot divesting the Court of subject matter jurisdiction.” *Diop v. Sessions*, 2019 WL 1894387, at *2 (S.D.N.Y. Mar. 20, 2019). Scott has not responded to this Court’s order to show cause and provides no argument to the contrary. Accordingly, the petition is dismissed.

SO ORDERED.

Dated: May 7, 2019
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE